

AMENDED IN ASSEMBLY JUNE 22, 2010
AMENDED IN ASSEMBLY JUNE 15, 2010
AMENDED IN ASSEMBLY JUNE 10, 2010
AMENDED IN ASSEMBLY JANUARY 11, 2010
AMENDED IN SENATE MAY 28, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 435

**Introduced by Senator Pavley
(Coauthor: Senator Lowenthal)**

February 26, 2009

An act to amend Section 42001.14 of, and to add Section 27202.1 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 435, as amended, Pavley. Vehicles: pollution control devices.

(1) Existing federal regulations require a motorcycle manufactured on and after January 1, 1983, and exhaust emission systems for those motorcycles, to meet specified noise emissions standards and require that a label be affixed onto the motorcycle or exhaust emission system indicating that the motorcycle or exhaust emission system meets the noise emissions standards.

This bill would make it a crime for a person to park, use, or operate a motorcycle, registered in the state, that is manufactured on and after January 1, ~~2000~~ 2011 or a motorcycle, registered in the state, with aftermarket exhaust system equipment that is manufactured on or after January 1, 2011, that does not have the above label, and would make

a violation of this provision punishable by a specified fine, thereby imposing a state mandated local program by creating a new crime. The bill would require the person to whom a notice to appear is issued, or against whom a complaint is filed, for the above violation, to provide proof of correction.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27202.1 is added to the Vehicle Code,
2 to read:

3 27202.1. (a) Notwithstanding *any* other law, a person shall
4 not park, use, or operate a motorcycle, registered in the State of
5 California, ~~and manufactured on and after January 1, 2000,~~ that
6 does not bear the required applicable federal Environmental
7 Protection Agency exhaust system label pursuant to Subparts D
8 (commencing with Section 205.150) and E (commencing with
9 Section 205.164) of Part 205 of Title 40 of the Code of Federal
10 Regulations. A violation of this section shall be considered a
11 mechanical violation and a peace officer shall not stop a motorcycle
12 solely on a suspicion of a violation of this section. A peace officer
13 shall cite a violation of this section as a secondary infraction.

14 ~~(b) A violation of this section is punishable pursuant to Section~~
15 ~~42001.14.~~

16 *(b) A violation of this section is punishable as follows:*

17 *(1) For a first conviction, by a fine of not less than fifty dollars*
18 *(\$50), nor more than one hundred dollars (\$100).*

19 *(2) For a second or subsequent conviction, by a fine of not less*
20 *than one hundred dollars (\$100), nor more than two hundred fifty*
21 *dollars (\$250).*

22 (c) The notice to appear issued or complaint filed for a violation
23 of this section shall require that the person to whom the notice to
24 appear is issued, or against whom the complaint is filed, produce
25 proof of correction pursuant to Section 40150.

1 (d) (1) *This section is applicable to a person operating a*
2 *motorcycle that is manufactured on or after January 1, 2011 or a*
3 *motorcycle with aftermarket exhaust system equipment that is*
4 *manufactured on or after January 1, 2011.*

5 (2) *Penalties imposed pursuant to this section are in addition*
6 *to penalties imposed pursuant to any other applicable laws or*
7 *regulations.*

8 (3) *This section does not supersede, negate, or otherwise alter*
9 *any other applicable laws or regulations.*

10 ~~SEC. 2. Section 42001.14 of the Vehicle Code is amended to~~
11 ~~read:~~

12 ~~42001.14. (a) A person convicted of an infraction for the~~
13 ~~offense of disconnecting, modifying, or altering a required pollution~~
14 ~~control device in violation of Section 27156 or of a violation of~~
15 ~~Section 27202.1 shall be punished as follows:~~

16 ~~(1) For a first conviction, by a fine of not less than fifty dollars~~
17 ~~(\$50), nor more than one hundred dollars (\$100).~~

18 ~~(2) For a second or subsequent conviction, by a fine of not less~~
19 ~~than one hundred dollars, nor more than two hundred fifty dollars~~
20 ~~(\$250).~~

21 ~~(b) (1) The fines collected under subdivision (a) shall be~~
22 ~~allocated pursuant to subdivision (d) of Section 42001.2.~~

23 ~~(2) The amounts allocated pursuant to paragraph (1) to the air~~
24 ~~pollution control district or air quality management district in~~
25 ~~which the infraction occurred shall first be allocated to the State~~
26 ~~Air Resources Board and the Bureau of Automotive Repair to pay~~
27 ~~the costs of the state board and the bureau under Article 8~~
28 ~~(commencing with Section 44080) of Chapter 5 of Part 5 of~~
29 ~~Division 26 of the Health and Safety Code.~~

30 ~~(3) The funds collected under subdivision (a) which are not~~
31 ~~required for purposes of paragraph (2) shall be used for the~~
32 ~~enforcement of Section 27156 or for the implementation of Article~~
33 ~~8 (commencing with Section 44080) of Chapter 5 of Part 5 of~~
34 ~~Division 26 of the Health and Safety Code.~~

35 ~~SEC. 3.~~

36 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution because~~
38 ~~the only costs that may be incurred by a local agency or school~~
39 ~~district will be incurred because this act creates a new crime or~~
40 ~~infraction, eliminates a crime or infraction, or changes the penalty~~

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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